

MHW

IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF ILLINOIS

CHICAGO EASTERN DIVISION

<b>RICKY ROBINSON-EL,</b>	)	
Plaintiff	)	Case No.: 1:07-cv-06412
	)	
<b>v.</b>	)	<u>VIRGINIA M. KENDALL</u>
	)	ASSIGNED JUDGE
<b>MELODY J. FORD, et al.</b>	)	
<b>ROGER E. WALKER JR, et al.</b>	)	
Defendants	)	

FILED *lcw*MEMORANDUM OF LAWAUG 22 2008  
AUG 22 2008MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT14th Amendment Due Process violation

Plaintiff Rickey Robinson-El, sets forth that it is a liberty interest when there is a regulation stating that the decision maker "shall" consider certain criteria. "A statute, rule or regulation creates a liberty interest if it limits the discretion of officials. The common way of limiting discretion is to use "explicitly Mandatory language" in connection with requiring substantive predicates. Board of Pardons v. Allen, 482 U.S. 369, at 374-80, 107 S.Ct. 2415 (1987). In plain English, when a statute such as 20 Ill.Admin.Code 504.850 says that under certain specified circumstances, officials must do something or refrain from doing it, it creates a liberty issue.

The Director "shall" review the grievance and the responses of the Grievance Officer and Chief Administrative Officer and "shall" determine whether the grievance requires a hearing before the Administrative Review Board. 20 Ill.Admin.Code 504.850(b). This statute has used language of an unmistakable mandatory character requiring that certain procedures "shall" be employed. The use of explicitly mandatory language in connection with requiring specific substantive predicates demands a conclusion that the State has created a protected liberty interest. Bewitt v. Helms, 459 U.S. at 472.

Courts have found Due Process violations when prisoners are disciplined without the chance to "have a hearing", or "present evidence". In this instant case Plaintiff is denied appeal to his grievance of which the loss of Priviledge for 2 years is the standing discipline. Ayers v. Ryan, 152 F.3d 77(2d Cir.1998); Taylor v. Rodriguez, 238 F.3d 188(2d Cir.2001); Hatch v. District of Columbia, 184 F.3d 846 (D.C. Cir.1999).



Rickey Robinson-El  
RICKY ROBINSON-EL